

REMARKS

In accordance with the foregoing, claims 41 and 42 have been cancelled without prejudice or disclaimer. No new matter is being presented, and approval and entry are respectfully requested. Therefore, claims 2-40 are pending, and reconsideration of claims 2-4, 8-17, 22-24, 29, 30, and 31-40 is requested.

ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:

Applicants request entry of this Rule 116 Response because it is believed that the cancellation of claims 41 and 42 at least places the application into a better form for purposes of appeal.

The Manual of Patent Examining Procedures sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REJECTION UNDER 35 U.S.C. §112, FIRST PARAGRAPH:

In the Office Action, claims 2-3, 4, 8-9, 29-30, 10, 32-35, 11, 12-13, 14-17, 36-40 and 41 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. These rejections are traversed.

As to the rejections specifically directed to claims 2, 4 and 10-12, the Examiner asserts that there is no support for defining the viscosity with units of cP's. However, applicants note that a rule 132 declaration is being submitted concurrently herewith which states that the units of measurement of viscosity are "cP's." Further, applicants reiterate the statement, which was raised in the previous response and which was supported by Exhibit A showing inherent properties of ones of the disclosed elements, that cP's would have been understood by one of ordinary skill in the art as of the filing date. Moreover, applicants submit that the declaration, the applicants' statement, and the Exhibit A attached to the previous response serve as evidence in support of the applicants' position and should be satisfactory in overcoming the rejection.

As to the rejections specifically directed to claims 4, 11, 33 and 37, applicants reiterate all of the previous statements as to the support for the use of 30% and 70% as claimed range points for the concentrations of the first and second solvents. Applicants note that because the currently claimed ranges are within the claimed ranges as originally filed and which the Examiner

acknowledges to be supported, the currently claimed ranges are also supported by the original disclosure. See MPEP 2163.05(II). Applicants, therefore, respectfully request that the Examiner reconsider the rejections.

In addition, applicants remind the Examiner of the existence of the declaration filed on October 2, 2003, which was filed to declare the non-obviousness of claimed ranges. That declaration stated that range points for solvent concentrations of 30% and 70% were envisioned and would be understood by one of ordinary skill in the art as of the time of the filing of the application.

As to the rejection of claim 41, it is noted that claim 41 has been cancelled without prejudice or disclaimer. Thus, the indefiniteness rejection of claim 41 is moot.

Thus, it is believed that the rejections of claims 2, 4, 10-12, 33, 37 and 41 are overcome and that the claims are, therefore, allowable.

Regarding the claims that depend from claims 2, 4, 10-12, 33, 37 and 41 and which stand rejected, as noted above, it is believed that these claims are also allowable due to their dependence on claims 2, 4, 10-12, 33, 37 and 41.

REJECTIONS UNDER 35 U.S.C. §103:

Claims 41-42 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fauteux (U.S. Patent 5,172,057) in view of Yamamoto et al. (JP 7-335254). However, it is noted that claims 41 and 42 have been cancelled without prejudice or disclaimer. Thus, it is believed that the rejections of these claims are moot.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any additional fees associated with the filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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